

2006 Judicial Candidate Campaign Finance Reporting Requirements

As provided in Supreme Court Rule 05-13

Candidates, including an incumbent judge, may personally solicit campaign contributions and publicly stated support from individuals and organizations other than political parties. Such candidates or candidates' campaign committees may solicit and accept reasonable campaign contributions not to exceed one-thousand dollars (\$1000.00) in the election year per individual or organization. Such candidates or candidates' campaign committees may manage the expenditure of funds for the candidates' campaign and obtain public statements of support for his or her candidacy from individuals or organizations other than political parties. The limitation on individual contributions to any individual candidate in this section does not apply to contributions from the candidate, the candidate's spouse, any relative within the third degree of kinship of the candidate or the candidate's spouse, and the spouses of such relatives.

Such candidates or candidates' campaign committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate or candidate's campaign committee may solicit contributions for the candidates' campaign no earlier than January 1 of the election year and no later than December 31 of the election year. In addition to complying with all applicable statutory requirements for disclosure of campaign contributions, candidates or candidates' campaign committees shall comply with all reporting requirements established in SDCL §§ 12-25-13 and 12-25-13.1. The reports must be filed with the Secretary of State on the dates specified in SDCL §§ 12-25-13 and 12-25-13.1. The candidates or candidates' campaign committees shall also comply with SDCL § 12-25-4.1. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

COMMENTARY

Although judges and judicial candidates are free to personally solicit campaign contributions and publicly stated support, they are encouraged to establish campaign committees of responsible persons to conduct campaigns for candidates through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Judges and judicial candidates are also encouraged to allow campaign committees to secure and manage the expenditure of funds for their campaigns and obtain public statements of support for their candidacies. The use of campaign committees is encouraged because they may better maintain campaign decorum and reduce campaign activity that may cause requests for recusal or the appearance of partisanship with respect to issues or the parties. At the start of the campaign, candidates must instruct his or her campaign committees to solicit or accept only contributions that are permitted under this rule. Candidates or candidates' campaign committees established under Section 5C(2) should manage campaign finances responsibly, avoiding deficits that might necessitate post-election fund-raising, to the extent possible. Contributions for a campaign for judicial office should not be knowingly solicited or accepted from a party, or one employed by, affiliated with or a member of the immediate family of a party, to litigation that (a) is before the candidate, (b) may reasonably be expected to come before the candidate if elected, or (c) has come before the candidate so recently that the knowing solicitation or acceptance of funds may give the appearance of improper use of the power or prestige of judicial office. Similarly, contributions may not be knowingly solicited or accepted from any firm, corporation or other organization that has as one of its purposes the promotion of one side of a legal issue which may reasonably be expected to come before the candidate if elected. Contributions may be solicited and accepted from lawyers (including lawyers having cases before, or which may come before, the candidate), provided that the solicitation makes no reference, direct or indirect, to any particular pending or potential litigation.

With regard to the issue of solicitation of contributions or publicly stated support from political parties, candidates or candidates' campaign committees are directed to review SDCL 12-9-2, making it a class 2 misdemeanor for any political party to endorse or nominate any candidate for judicial office.